

REFERENCE TITLE: CPS; criminal investigations

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

## **HB 2455**

Introduced by  
Representatives Paton, Adams: Burges

AN ACT

AMENDING SECTIONS 8-304, 8-541, 8-542, 8-701, 8-801, 8-802, 8-816, 8-817, 8-819 AND 8-821, ARIZONA REVISED STATUTES; REPEALING SECTION 8-800, ARIZONA REVISED STATUTES; AMENDING TITLE 8, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 8-800; RELATING TO CHILD PROTECTIVE SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-541, Arizona Revised Statutes, is amended to  
3 read:

4 8-304. Investigation of alleged acts of delinquency, dependency  
5 and incorrigibility

6 A. The law enforcement officer having jurisdiction in the place in  
7 which an act of delinquency or incorrigibility is alleged to have occurred  
8 shall have the responsibility for the complete investigation surrounding the  
9 alleged commission of the act.

10 B. A child protective services specialist of the department shall have  
11 the responsibility for the complete investigation of all complaints of  
12 alleged dependency, and ~~an extremely serious~~ A CRIMINAL conduct allegation  
13 shall be investigated in cooperation with the appropriate law enforcement  
14 agencies and according to the protocols established pursuant to section 8-  
15 817. The department shall be responsible for the disposition of such child  
16 unless the matter requires the intervention of the court. For the purposes  
17 of this subsection, "~~extremely serious~~ CRIMINAL conduct allegation" has the  
18 same meaning prescribed in section 8-801.

19 Sec. 2. Section 8-541, Arizona Revised Statutes, is amended to read:

20 8-541. Records; inspection; exception

21 A. ~~EXCEPT AS PROVIDED IN SUBSECTION B~~, all files, records, reports and  
22 other papers compiled in accord with this article, whether filed in or in  
23 possession of the court, a child placement agency or other agency or  
24 association, shall be withheld from public inspection.

25 B. ~~Such~~ Files, records, reports and other papers may be open to  
26 inspection by ~~LAW ENFORCEMENT AGENCIES AND PROSECUTORS AND OTHER~~ persons and  
27 agencies having a legitimate interest in the case ~~and their attorneys and by~~  
28 ~~other persons and agencies having a legitimate interest~~ OR in the protection,  
29 welfare or treatment of ~~the child~~ CHILDREN OR THE PROTECTION OF THE RIGHTS OF  
30 CHILDREN AS CRIME VICTIMS, AND THEIR ATTORNEYS MAY HAVE ACCESS TO THESE  
31 FILES, RECORDS, REPORTS AND OTHER PAPERS ON A REQUEST FILED IN SUPERIOR COURT  
32 IF SO ORDERED BY THE COURT ON A SHOWING THAT THE RELEASE OF THE FILES,  
33 RECORDS, REPORTS OR OTHER PAPERS WOULD NOT INFRINGE ON THE RIGHT OF THE CHILD  
34 TO JUSTICE AND DUE PROCESS AND TO BE FREE FROM INTIMIDATION, HARASSMENT OR  
35 ABUSE OR TO BE TREATED WITH FAIRNESS, RESPECT OR DIGNITY OR OTHER RIGHTS OF  
36 THE CHILD. NOTICE AND AN OPPORTUNITY TO BE HEARD SHALL BE PROVIDED TO THE  
37 PROSECUTOR AND TO THE CHILD AND THE CHILD'S ATTORNEY BEFORE ANY DECISION IS  
38 MADE TO RELEASE ANY RECORDS. NOTWITHSTANDING ANY RULE OF PROCEDURE TO THE  
39 CONTRARY, TO PROTECT A CHILD VICTIM'S CONSTITUTIONAL RIGHT TO JUSTICE AND DUE  
40 PROCESS AND THE RIGHT TO BE TREATED WITH FAIRNESS, RESPECT AND DIGNITY, AND  
41 TO BE FREE FROM INTIMIDATION, HARASSMENT OR ABUSE, OR OTHER RIGHTS OF THE  
42 CHILD, THE FILES, RECORDS, REPORTS OR OTHER PAPERS IN THE POSSESSION OF A LAW  
43 ENFORCEMENT AGENCY OR THE PROSECUTOR ARE NOT DISCOVERABLE BY A PERSON WHO IS  
44 ACCUSED OF A CRIME AGAINST THE CHILD OR THAT PERSON'S ATTORNEY, OR BY ANY  
45 PERSON WHO IS ACTING ON BEHALF OF THAT PERSON, UNLESS THE COURT FINDS A

1 COMPELLING NEED TO DISCLOSE THEM AFTER AN IN CAMERA REVIEW AT WHICH THE  
2 PROSECUTOR AND CHILD VICTIM HAVE THE RIGHT TO OBJECT.

3 C. ~~The provisions of~~ This section ~~shall~~ DOES not ~~be construed to~~  
4 prohibit persons employed by the court, the division or a licensed child  
5 welfare agency from conducting the investigations or performing other duties  
6 pursuant to this article and done within the normal course of their  
7 employment.

8 Sec. 3. Section 8-542, Arizona Revised Statutes, is amended to read:

9 8-542. Confidentiality of information; violation;  
10 classification

11 A. It is unlawful, except for purposes for which files and records or  
12 social records or parts ~~thereof~~ OF or information ~~therefrom~~ FROM FILES AND  
13 RECORDS OR SOCIAL RECORDS have been released pursuant to section 8-541, or  
14 except for purposes permitted by order of the court, for any person to  
15 knowingly disclose, receive or make use of, or authorize, knowingly permit,  
16 participate in or acquiesce in the use of, any information involved in any  
17 proceeding under this article directly or indirectly derived from the files,  
18 records, reports or other papers compiled pursuant to this article, or  
19 acquired in the course of the performance of official duties.

20 B. A person who knowingly discloses information in violation of ~~the~~  
21 ~~provisions of~~ this section or section 8-541 is guilty of a class 2  
22 misdemeanor.

23 C. ~~The provisions of~~ This section ~~shall not be construed to~~ DOES NOT  
24 prohibit persons employed by the court, the division or ~~an~~ A LICENSED WELFARE  
25 agency from conducting the investigations or performing other duties pursuant  
26 to this article and done within the normal course of their employment.

27 Sec. 4. Section 8-701, Arizona Revised Statutes, is amended to read:

28 8-701. Healthy families program; administration; consent;  
29 access to records

30 A. The healthy families program is established in the department of  
31 economic security. The program shall provide services to children under five  
32 years of age and members of their families that are designed to prevent child  
33 abuse or neglect and to promote child development and wellness. The program  
34 also may provide these services to pregnant women and their families.

35 B. The department shall:

36 1. Develop standardized program eligibility criteria to be used for  
37 identifying families in greatest need of program services.

38 2. Develop the following program functions:

39 (a) Comprehensive standardized risk assessment evaluation for newborns  
40 and their families.

41 (b) A method to identify families that have the greatest need for  
42 program services. The department shall establish a method of disclosing to  
43 parents at the time of their admission to a hospital for childbirth that they  
44 may be contacted regarding program services.

1 (c) Outreach services that are conducted primarily through  
2 prescheduled home visits.

3 3. Establish methods that assist program participants to reduce  
4 illiteracy, reduce dependency on welfare, encourage employment, encourage  
5 self-sufficiency and encourage community involvement by program participants  
6 through community service, employment or participation in religious or social  
7 organizations.

8 4. Develop employment guidelines for program personnel that include  
9 background checks for those personnel who will have direct contact with  
10 pregnant women or families or who will have access to program participant  
11 records. Employment guidelines shall include skill development in child  
12 abuse and neglect detection and in the collection of relevant program data.

13 5. Track program costs.

14 6. Offer parents education on prenatal care.

15 7. Offer participants education on successful marriage.

16 8. Establish guidelines for requiring program participants to engage  
17 in community service activities in exchange for benefits received from the  
18 program. Participants shall be allowed to choose from a variety of community  
19 and faith-based service providers that are under contract with the department  
20 to provide community service opportunities or program services. Participants  
21 shall be allowed and encouraged to engage in community services within their  
22 own communities. Participants shall be allowed to fulfill the requirements  
23 of this paragraph by providing community services to the program from which  
24 they received services.

25 C. The goals of the healthy families program include:

26 1. Reducing child abuse and neglect.

27 2. Promoting child wellness and proper development.

28 3. Strengthening family relations.

29 4. Promoting family unity.

30 5. Reducing dependency on drugs and alcohol.

31 D. The healthy families program shall provide the following services  
32 to program participants:

33 1. Informal counseling or emotional support services.

34 2. Assistance in developing parenting and coping skills.

35 3. Education on the importance of good nutritional habits to improve  
36 the overall health of their children.

37 4. Education on developmental assessments so that early identification  
38 of any learning disabilities, physical handicaps or behavioral health needs  
39 are determined.

40 5. Education on the importance of preventative health care and the  
41 need for screening examinations such as hearing and vision.

42 6. Assistance and encouragement to provide age appropriate  
43 immunizations so that their children are immunized.

44 7. Assistance and encouragement to access comprehensive private and  
45 public preschool and other school readiness programs.

1           8. Assistance in applying for private and public financial assistance  
2 including employment services.

3           9. Assistance in accessing other applicable community and public  
4 services including employment services.

5           E. Program participants shall be provided with the Arizona children  
6 and families resource directory compiled under section 36-698 in order to  
7 help them answer questions concerning early childhood development.

8           F. Program services shall not be provided under this section unless:  
9           1. Participation in the program is initiated in response to a request  
10 by the potential program participant.

11           2. A verbal explanation of the program is provided to program  
12 participants, including an explanation of the rights and responsibilities of  
13 both the participant and the program provider.

14           3. The written, informed consent of the program participants is  
15 received. The consent form shall include at least a clear description of the  
16 program, including the activities and information to be provided by the  
17 program during prescheduled home visits, the number of expected home visits,  
18 the right of program participants to terminate participation in the program  
19 at any time, any responsibilities of the program participants, a statement  
20 that a record will be made and maintained of the home visits and may be  
21 available in future court proceedings and any other information that is  
22 necessary to convey to the program participants a clear understanding of the  
23 program.

24           G. The initial contact may be in person and at any convenient  
25 location, except that if the contact occurs at the primary residence of the  
26 potential program participant, the program personnel shall not enter the  
27 residence during the initial contact without the permission of the potential  
28 program participant.

29           H. If the potential program participant is a minor living with the  
30 minor's parent or guardian, home visits shall not be provided under this  
31 section without the additional written consent of the parent or guardian.

32           I. If any home visits are to be made by program personnel who are  
33 required to report suspected abused or neglected children pursuant to title  
34 13, chapter 36, the consent form shall also contain a clear and conspicuous  
35 statement informing parents that the home visits will be made by a person who  
36 is required to report any instances of suspected abuse or neglect of children  
37 to child protective services in the department of economic security or its  
38 successor.

39           J. Program participants have access to the records on their own family  
40 at all times and have the right to correct any inaccurate information  
41 included in the records. Records shall be retained for at least five years  
42 after the participants' last involvement in the program. Program records are  
43 not available to other government agencies or programs in the department  
44 without specific prior written consent by the program participant for the  
45 release of information in the program participant's records. Program

1 personnel shall not wilfully include defamatory information or maliciously  
2 include derogatory information in the records. Program participants have a  
3 right of action against any program personnel for the knowing or reckless  
4 inclusion of defamatory information in the records.

5 K. This section does not prohibit a person from satisfying the  
6 reporting requirements of section 13-3620 or from complying with a court  
7 order to produce records.

8 L. THIS SECTION DOES NOT PERMIT THE DEPARTMENT TO PLACE A CHILD IN THE  
9 PROGRAM CONTRARY TO THE REQUIREMENTS OF THE PROTOCOLS ESTABLISHED PURSUANT TO  
10 SECTION 8-817.

11 Sec. 5. Repeal

12 Section 8-800, Arizona Revised Statutes, is repealed.

13 Sec. 6. Title 8, chapter 10, article 1, Arizona Revised Statutes, is  
14 amended by adding a new section 8-800, to read:

15 8-800. Purpose of child protective services

16 A. THE PRIMARY PURPOSE OF CHILD PROTECTIVE SERVICES IS TO PROTECT  
17 CHILDREN. IF THERE IS PROBABLE CAUSE TO BELIEVE THAT A CHILD HAS BEEN THE  
18 VICTIM OF CRIMINAL CONDUCT, THE DEPARTMENT OF ECONOMIC SECURITY SHALL:

19 1. COMPLY WITH THE DIRECTIONS OF THE APPROPRIATE PROSECUTOR AND  
20 APPROPRIATE LAW ENFORCEMENT AGENCY THROUGHOUT THE CRIMINAL JUSTICE PROCESS.

21 2. PRESERVE AND PROTECT THE RIGHTS OF THE CHILD AS A VICTIM OF A  
22 CRIME.

23 3. NOT REUNITE A CHILD WITH THE PERSON OR PERSONS WHO ARE ALLEGED TO  
24 BE RESPONSIBLE FOR THE CRIMINAL CONDUCT UNLESS AND UNTIL THERE IS CLEAR AND  
25 CONVINCING EVIDENCE THAT THE CHILD WILL BE SAFE AND WILL NOT BE AT RISK OF  
26 BEING THE VICTIM OF CRIMINAL CONDUCT.

27 B. IN ORDER TO PROTECT THE CONSTITUTIONAL RIGHTS OF THE CHILD AS A  
28 CRIME VICTIM, RELEASE CONDITIONS THAT ARE IMPOSED IN ANY CRIMINAL CASE  
29 INVOLVING A CHILD VICTIM SUPERSEDE ANY OTHER COURT ORDERS.

30 Sec. 7. Section 8-801, Arizona Revised Statutes, is amended to read:

31 8-801. Definitions

32 In this chapter, unless the context otherwise requires:

33 1. "Child protective services worker" or "worker" means a person who  
34 has been selected by and trained under the requirements prescribed by the  
35 department and who assists in carrying out the provisions of this article.

36 2. "~~Extremely serious~~ CRIMINAL conduct allegation" means an allegation  
37 of conduct by a parent, guardian or custodian of a child that, if true, would  
38 constitute any of the following:

39 (a) A violation of section 13-3623 involving child abuse.

40 (b) A felony offense that constitutes domestic violence as defined in  
41 section 13-3601.

42 (c) A violation of section 13-1404 or 13-1406 involving a minor.

43 (d) A violation of section 13-1405, 13-1410 or 13-1417.

44 (e) Any other act of abuse that is classified as a felony.

1           3. "In-home intervention" means a program of services provided  
2 pursuant to article 7 of this chapter while the child is still in the custody  
3 of the parent, guardian or custodian.

4           4. "Protective services" means a specialized child welfare program  
5 that is administered by the department as provided in this chapter and that  
6 investigates allegations of and seeks to prevent, intervene in and treat  
7 abuse and neglect, to promote the well-being of the child in a permanent home  
8 and to coordinate services to strengthen the family.

9           Sec. 8. Section 8-802, Arizona Revised Statutes, is amended to read:

10       8-802. Child protective services worker; fingerprint clearance  
11           cards; powers and duties; alteration of files;  
12           violation; classification

13           A. The department of economic security shall employ child protective  
14 services workers. All persons who are employed as child protective services  
15 workers shall have a valid fingerprint clearance card that is issued pursuant  
16 to title 41, chapter 12, article 3.1 or shall apply for a fingerprint  
17 clearance card within seven working days of employment. A child protective  
18 services worker shall certify on forms that are provided by the department of  
19 economic security and that are notarized whether the worker is awaiting trial  
20 on or has ever been convicted of any of the criminal offenses listed in  
21 section 41-1758.03, subsections B and C in this state or similar offenses in  
22 another state or jurisdiction.

23           B. The department may cooperate with county agencies and community  
24 social services agencies to achieve the purposes of this section **PURSUANT TO**  
25 **THE PROTOCOLS ESTABLISHED PURSUANT TO SECTION 8-817.**

26           C. **PURSUANT TO THE PROTOCOLS ESTABLISHED PURSUANT TO SECTION 8-817,** a  
27 child protective services worker shall:

28           1. **AS A PRIMARY DUTY,** promote the safety and protection of children.

29           2. Accept, screen and assess reports of abuse or neglect pursuant to  
30 section 8-817.

31           3. Receive reports of dependent, abused or abandoned children and be  
32 prepared to provide temporary foster care for such children on a twenty-four  
33 hour basis.

34           4. Receive from any source oral or written information regarding a  
35 child who may be in need of protective services. A worker shall not  
36 interview a child without the prior written consent of the parent, guardian  
37 or custodian of the child unless **either:**

38           (a) The child initiates contact with the worker.

39           (b) The child who is interviewed is the subject of or is the sibling  
40 of or living with the child who is the subject of an abuse or abandonment  
41 investigation pursuant to paragraph 5, subdivision (b) of this subsection.

42           (c) **THE INTERVIEW IS PERMITTED PURSUANT TO THE TERMS OF THE PROTOCOLS**  
43 **ESTABLISHED PURSUANT TO SECTION 8-817 AND FOLLOWS THOSE PROTOCOLS.**

44           5. After the receipt of any report or information pursuant to  
45 paragraph 2, 3 or 4 of this subsection, immediately do both of the following:

1 (a) Notify the municipal or county law enforcement agency.

2 (b) Make a prompt and thorough investigation of the nature, extent and  
3 cause of any condition that would tend to support or refute the allegation  
4 that the child should be adjudicated dependent and the name, age and  
5 condition of other children in the home. ~~An extremely serious~~ A CRIMINAL  
6 conduct allegation shall be investigated according to the protocols  
7 established pursuant to section 8-817 with the appropriate municipal or  
8 county law enforcement agency as provided in section 8-817.

9 6. Take a child into temporary custody as provided in section 8-821.  
10 Law enforcement officers shall cooperate with the department to remove a  
11 child from the custody of the child's parents, guardian or custodian when  
12 necessary.

13 7. After investigation, evaluate conditions created by the parents,  
14 guardian or custodian that would support or refute the allegation that the  
15 child should be adjudicated dependent. The child protective services worker  
16 shall then determine whether any child is in need of protective services.

17 8. Offer to the family of any child who is found to be a child in need  
18 of protective services those services that are designed to correct unresolved  
19 problems that would indicate a reason to adjudicate the child dependent.

20 9. Submit a written report of the worker's investigation to:

21 (a) The department's case management information system within  
22 twenty-one days after receipt of the initial information except as provided  
23 in section 8-811. If the investigation involves allegations regarding a  
24 child who at the time of the alleged incident was in the custody of a child  
25 welfare agency licensed by the department of economic security under this  
26 title, a copy of the report and any additional investigative or other related  
27 reports shall be provided to the board of directors of the agency or to the  
28 administrative head of the agency unless the incident is alleged to have been  
29 committed by the person. The department shall excise all information with  
30 regard to the identity of the source of the reports.

31 (b) The appropriate court forty-eight hours before a dependency  
32 hearing pursuant to a petition of dependency or within twenty-one days after  
33 a petition of dependency is filed, whichever is earlier. On receipt of the  
34 report the court shall make the report available to all parties and counsel.

35 10. Accept a child into voluntary placement pursuant to section 8-806.

36 D. No child shall remain in temporary custody for a period exceeding  
37 seventy-two hours, excluding Saturdays, Sundays and holidays, unless a  
38 dependency petition is filed. If no petition is filed and the child is  
39 released to the child's parent, guardian or custodian, the worker shall file  
40 a report of removal with the central registry within seventy-two hours of the  
41 child's release. The report shall include:

42 1. The dates of previous referrals, investigations or temporary  
43 custody.

44 2. The dates on which other children in the family have been taken  
45 into temporary custody.

1 E. The department shall provide child protective services workers who  
2 investigate allegations of abuse and neglect with training in forensic  
3 interviewing and processes, the protocols ~~developed~~ ESTABLISHED pursuant to  
4 section 8-817 and relevant law enforcement procedures. All child protective  
5 services workers shall be trained in their duty to protect the legal rights  
6 of children and families from the time of the initial contact through  
7 treatment. The training for child protective services workers shall also  
8 include instruction on the legal rights of parents and the requirements for  
9 legal search and seizure by law enforcement officers.

10 F. In conducting an investigation pursuant to this section, if the  
11 worker is made aware that an allegation of abuse or neglect may also have  
12 been made in another state, the worker shall contact the appropriate agency  
13 in that state to attempt to determine the outcome of any investigation of  
14 that allegation.

15 G. Any person who alters a client file for the purpose of fraud or  
16 misrepresentation is guilty of a class 2 misdemeanor.

17 Sec. 9. Section 8-816, Arizona Revised Statutes, is amended to read:  
18 8-816. Family builders program; services; program termination;  
19 definitions

20 A. The family builders program is established in the department of  
21 economic security. The department shall implement the program through  
22 collaborative partnerships between child protective services, community  
23 social service agencies, family support programs and other community  
24 organizations, which may include faith-based organizations, to establish a  
25 system that, through referral to a network of contracted neighborhood-based  
26 agencies, provides a variety of community-linked family preservation and  
27 support services to assist families to prevent and remedy conditions or  
28 circumstances that cause child abuse or neglect.

29 B. The department shall contract with neighborhood-based agencies and  
30 organizations to conduct family assessments, provide case management and  
31 provide the necessary services to protect the child and support the family on  
32 referral from the department.

33 C. During the initial contact with a family, the provider shall:

34 1. Verbally inform the prospective program participants that child  
35 protective services referred the family to the provider after investigation  
36 of a report of abuse or neglect.

37 2. Verbally inform the prospective program participants that they do  
38 not have to accept services.

39 3. Obtain the written, informed consent of the prospective program  
40 participants who choose to accept the services offered. The consent form  
41 shall include a description of the services offered and the rights and  
42 responsibilities of the program participants and a statement that emphasizes  
43 the voluntary nature of the program.

44 D. Contracts shall require that the provider establish a continuum of  
45 services for families through written agreements with community agencies and

1 organizations to provide required services to families. The provider may  
2 purchase or obtain without cost the services of any agency or organization  
3 that may provide resources to assist the family.

4 E. Contracts shall require that the provider initiate a thorough  
5 family assessment and necessary services within forty-eight hours, excluding  
6 weekends and holidays, after the provider receives the referral from the  
7 department.

8 F. The department shall provide information to the provider concerning  
9 the current report and may provide any information from records it deems  
10 appropriate. All information received by the provider regarding the report  
11 of abuse or neglect and department records is subject to the confidentiality  
12 requirements of section 8-807. Information in the records of the provider  
13 concerning the families served by the program is available for the purposes  
14 of evaluating the program.

15 G. On receipt of a referral from child protective services, within  
16 forty-eight hours the provider shall attempt to contact the family in person,  
17 initiate a family assessment with the consent of the family and offer to  
18 assist the family to obtain the services that are necessary to reduce or  
19 eliminate the causes for the initial information being received by child  
20 protective services and other identified needs of the family.

21 H. If at any time during the initial contact or during the course of  
22 service delivery the provider determines that the child is in imminent danger  
23 of abuse or neglect, the provider shall immediately report the case to the  
24 department or the appropriate law enforcement agency, or both, for  
25 appropriate action. In all cases the provider and any agency under  
26 subcontract to the provider shall retain records of information on initial  
27 and ongoing contact with the family and the final disposition of the case and  
28 shall provide this information to the department.

29 I. A family who is offered services by the provider may refuse to  
30 accept those services. The provider shall document the family's refusal of  
31 services in the case record.

32 J. The provider shall conduct an assessment in the home and with the  
33 family's participation shall develop an initial plan within thirty days based  
34 on the family's needs. The provider shall assist the family in identifying  
35 and providing appropriate services. The provider shall monitor the progress  
36 made by the family based on the plan expectations and shall conduct home  
37 visits to determine the safety of the child and any other children in the  
38 home at the time of the visit.

39 K. The department shall require that the provider establish a local  
40 advisory board composed of appropriate community representatives, including  
41 representation from families in the community and local public agencies. The  
42 local advisory board shall ensure that a continuum of services is provided  
43 for families and shall provide oversight to the program.

44 L. The department shall identify goals, objectives and outcomes for  
45 family builders programs.

1 M. If the department expands the program to new geographic areas, it  
2 shall hold at least one informational meeting to inform potential providers  
3 of the opportunity to bid on the contract. The department shall provide  
4 adequate public notice of each meeting to potential providers in the same  
5 manner as provided in section 41-2533.

6 N. The department shall develop performance standards for the  
7 contracts, provide training to the provider or organization staff involved in  
8 service delivery to these families regarding child abuse and neglect and  
9 monitor the performance of the providers.

10 Q. THIS SECTION DOES NOT PERMIT THE DEPARTMENT TO PLACE A CHILD IN THE  
11 PROGRAM CONTRARY TO THE REQUIREMENTS OF THE PROTOCOLS ESTABLISHED PURSUANT TO  
12 SECTION 8-817.

13 ~~P.~~ P. The program established by this section ends on July 1, 2010  
14 pursuant to section 41-3102.

15 ~~P.~~ Q. For the purposes of this section:

- 16 1. "Department" means the department of economic security.
- 17 2. "Provider" means a community social services agency, family support  
18 program or community organization, including a faith-based organization, that  
19 is awarded a contract by the department.
- 20 3. "Services" includes:
  - 21 (a) Family assessment.
  - 22 (b) Case management.
  - 23 (c) Child day care.
  - 24 (d) Housing search and relocation.
  - 25 (e) Parenting skills training.
  - 26 (f) Supportive intervention and guidance counseling.
  - 27 (g) Transportation.
  - 28 (h) Emergency services.
  - 29 (i) Intensive family preservation.
  - 30 (j) Parent aide services.
  - 31 (k) Respite services.
  - 32 (l) Shelter services with parental consent.
  - 33 (m) Additional services that the department determines are necessary  
34 to meet the needs of the families.

35 Sec. 10. Section 8-817, Arizona Revised Statutes, is amended to read:

36 8-817. Initial screening and safety assessment and  
37 investigation protocols; investigations; disclosure of  
38 information

39 A. The department shall ~~develop~~ ESTABLISH initial screening and safety  
40 assessment protocols ~~in consultation with the attorney general and statewide~~  
41 ~~with~~ FOR USE IN CASES INVOLVING ALLEGATIONS OF CRIMINAL CONDUCT. THESE  
42 PROTOCOLS SHALL BE APPROVED BY THE county ~~attorneys,~~ ATTORNEY IN THE COUNTY  
43 IN WHICH THE PROTOCOLS WILL BE USED. THE COUNTY ATTORNEY SHALL CONSULT WITH  
44 chiefs of police, sheriffs, medical experts, victims' rights advocates,  
45 domestic violence victim advocates and mandatory reporters BEFORE APPROVING

1 THE PROTOCOLS. Any initial screening and safety assessment tools shall be  
2 based on sound methodology and shall ensure valid and reliable responses.  
3 The department shall establish written policies and procedures to implement  
4 the use of the initial screening and safety assessment protocols.

5 B. In each county, the county attorney, the sheriff, the chief law  
6 enforcement officer for each municipality in the county and the department  
7 shall develop and implement protocols ~~for cooperation in~~ TO GOVERN THE  
8 CONDUCT OF investigations of allegations involving ~~extremely serious~~ CRIMINAL  
9 conduct. The protocols shall include:

10 1. The process for notification of receipt of ~~extremely serious~~  
11 CRIMINAL conduct allegations.

12 2. The standards for interdisciplinary investigations of specific  
13 types of abuse and neglect, including timely forensic medical evaluations.

14 3. The standards for interdisciplinary investigations involving native  
15 American children in compliance with the Indian child welfare act.

16 4. Procedures for sharing information.

17 5. Procedures for coordination of screening, response and  
18 investigation with other involved professional disciplines and notification  
19 of case status.

20 6. The training required for the involved child protective ~~service~~  
21 SERVICES workers, law enforcement officers and prosecutors to execute the  
22 investigation protocols, including forensic interviewing skills.

23 7. The process to ensure review of and compliance with the  
24 investigation protocols and the reporting of activity under the protocols.

25 8. Procedures for an annual report to be transmitted within forty-five  
26 days after the end of each fiscal year to the governor, the speaker of the  
27 house of representatives and the president of the senate.

28 9. Procedures for dispute resolution.

29 C. The department, ~~—~~ SHALL COMPLY WITH THE DIRECTIONS OF the  
30 appropriate county attorney and the appropriate law enforcement agency ~~shall~~  
31 ~~cooperate~~ in the investigation of every ~~extremely serious~~ CRIMINAL conduct  
32 allegation in accordance with the investigation protocols established  
33 pursuant to this section. Before it releases records it receives from the  
34 department pursuant to an investigation, the law enforcement agency shall  
35 take whatever precautions it determines are reasonably necessary to protect  
36 the identity and safety of a person who reports child abuse or neglect and to  
37 protect any other person the agency believes could be endangered by the  
38 disclosure of the CPS information AS DEFINED IN SECTION 8-807. The law  
39 enforcement agency is not required to disclose CPS information if the  
40 disclosure would compromise the integrity of a child protective services or  
41 criminal investigation.

42 Sec. 11. Section 8-819, Arizona Revised Statutes, is amended to read:

43 8-819. Determination of neglect; protection plan

44 A. In determining if a child is neglected, consideration shall be  
45 given to:

1           1. The drug or alcohol abuse of the child's parent, guardian or  
2           custodian.

3           2. The use by the mother of a dangerous drug, a narcotic drug or  
4           alcohol during pregnancy if the child, at birth or within a year after birth,  
5           is demonstrably adversely affected by this use. For the purposes of this  
6           paragraph, "dangerous drug" and "narcotic drug" have the same meaning  
7           prescribed in section 13-3401.

8           B. IF THERE IS EVIDENCE OF NEGLECT PURSUANT TO THIS SECTION, THE  
9           DEPARTMENT, AS ITS HIGHEST PRIORITY AND IN A MANNER THAT IS CONSISTENT WITH  
10          THE PROTOCOLS ESTABLISHED PURSUANT TO SECTION 8-817, SHALL PREPARE AND  
11          IMPLEMENT A PLAN TO PROTECT THE SAFETY OF THE CHILD.

12          Sec. 12. Section 8-821, Arizona Revised Statutes, is amended to read:

13          8-821. Taking into temporary custody; medical examination;  
14                 placement; interference; violation; classification

15          A. A child shall be taken into temporary custody in proceedings to  
16          declare a child a temporary ward of the court to protect the child, pursuant  
17          to an order of the juvenile court on a petition by an interested person, a  
18          peace officer or a child protective services worker under oath that  
19          reasonable grounds exist to believe that temporary custody is clearly  
20          necessary to protect the child from suffering abuse or neglect. If a child  
21          is taken into temporary custody pursuant to this section, the child's sibling  
22          shall also be taken into temporary custody only if reasonable grounds  
23          independently exist to believe that temporary custody is clearly necessary to  
24          protect the child from suffering abuse or neglect.

25          B. A child may be taken into temporary custody by a peace officer or a  
26          child protective services worker if temporary custody is clearly necessary to  
27          protect the child because probable cause exists to believe that the child is  
28          either:

29                 1. A victim or will imminently become a victim of abuse or neglect.

30                 2. Suffering serious physical or emotional injury that can only be  
31                 diagnosed by a medical doctor or psychologist.

32                 3. Physically injured as a result of living on premises where  
33                 dangerous drugs or narcotic drugs are being manufactured. For the purposes  
34                 of this paragraph, "dangerous drugs" and "narcotic drugs" have the same  
35                 meaning prescribed in section 13-3401.

36          ~~C. In determining if a child should be taken into temporary custody,~~  
37          ~~the interested person, peace officer or child protective services worker may~~  
38          ~~take into consideration as a mitigating factor the participation of the~~  
39          ~~parent or guardian in the healthy families program established by section~~  
40          ~~8-701.~~

41          ~~D.~~ C. In determining if a child should be taken into temporary  
42          custody, the interested person, peace officer or child protective services  
43          worker shall take into consideration:

44                 1. As a paramount concern, the child's health ~~and safety and shall~~  
45                 ~~consider as a mitigating factor the availability of reasonable services to~~

1 ~~the parent or guardian to prevent or eliminate the need for removal of the~~  
2 ~~child and the effort of the parent or guardian to obtain and participate in~~  
3 ~~these services.~~

4 2. Whether the parent is willing to participate in services provided  
5 pursuant to section 8-830.

6 3. WHETHER IT IS NECESSARY TO PROTECT THE CHILD FROM ABUSE OR NEGLECT  
7 IF THERE IS PROBABLE CAUSE TO BELIEVE THAT A CHILD IS THE VICTIM OF CRIMINAL  
8 CONDUCT, UNLESS IT CAN BE DEMONSTRATED BY CLEAR AND CONVINCING EVIDENCE THAT  
9 THE CHILD WILL NOT AGAIN BE THE VICTIM OF CRIMINAL CONDUCT.

10 ~~E.~~ D. A person who takes a child into custody pursuant to subsection  
11 B, paragraph 2 of this section shall immediately have the child examined by a  
12 medical doctor or psychologist. After the examination the person shall  
13 release the child to the custody of the parent or guardian of the child  
14 unless the examination reveals abuse or neglect. Temporary custody of a  
15 child taken into custody pursuant to subsection B, paragraph 2 of this  
16 section shall not exceed twelve hours.

17 ~~F.~~ E. A child who is taken into temporary custody pursuant to this  
18 article shall not be detained in a police station, jail or lockup where  
19 adults charged with or convicted of a crime are detained.

20 ~~G.~~ F. A child shall not remain in temporary custody for more than  
21 seventy-two hours excluding Saturdays, Sundays and holidays unless a  
22 dependency petition is filed.

23 ~~H.~~ G. A person who knowingly interferes with the taking of a child  
24 into temporary custody under this section is guilty of a class 2 misdemeanor.